

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA,	:	
	:	
<i>Plaintiff,</i>	:	
	:	
v.	:	Civil No. 12-26
	:	
LARRY CARNELL DIXON, SR., AND	:	
DIXON'S TAX SERVICE, L.L.C.	:	
	:	
<i>Defendants.</i>	:	

AMENDED COMPLAINT FOR PERMANENT INJUNCTION

The plaintiff, United States of America, complains and alleges against the defendants, Larry Carnell Dixon, Sr. and Dixon's Tax Service, L.L.C. as follows:

1. This is a civil action brought by the United States pursuant to sections 7401, 7402, 7407, and 7408 of the Internal Revenue Code (26 U.S.C.) ("I.R.C.") to restrain and enjoin the defendants, Larry Carnell Dixon, Sr. and Dixon's Tax Service, L.L.C. and all those in active concert or participation with them from:
 - a. preparing federal income tax returns, amended returns, and other related documents and forms for others;
 - b. assisting in the preparation of federal tax returns that the person knows will result in the understatement of any tax liability or the overstatement of federal tax refunds;
 - c. engaging in any activity subject to penalty under I.R.C. §§ 6694, 6695, or 6701; and

d. engaging in conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

2. This action is authorized by the Chief Counsel of the Internal Revenue Service (“IRS”), a delegate of the Secretary of the Treasury, and is brought at the direction of a delegate of the Attorney General of the United States, in accordance with 26 U.S.C. §§ 7401, 7407(a), and 7408(a).

3. Jurisdiction is conferred on this Court by Sections 1340 and 1345 of Title 28, United States Code, and I.R.C. §§ 7402(a), 7407, and 7408.

4. Larry Carnell Dixon, Sr.(“Dixon”) resides in Zachary, Louisiana which is within the jurisdiction of this court.

5. Dixon prepares tax returns under the business name, Dixon’s Tax Service. Dixon is a member of Dixon’s Tax Service, L.L.C.

6. Dixon’s Tax Service, L.L.C. (“Dixon’s Tax Service”) is an active limited liability company registered with the Louisiana Secretary of State. Dixon’s Tax Service’s principal place of business is within the jurisdiction of this court.

7. Dixon’s Tax Service has a registered agent, Neal Alexis, Jr., whose listed address is Baton Rouge, Louisiana, which is within the jurisdiction of this court.

8. Venue is proper in this Court under 26 U.S.C. §§ 7407, 7408 and 28 U.S.C. § 1391(b) because the defendants reside and have its principal place of business within the jurisdiction of this Court.

DEFENDANT CAUSED AND CONTINUES TO CAUSE
MILLIONS OF DOLLARS IN TAX LOSSES

9. Dixon's Tax Service, through Dixon and its employees, have prepared thousands of federal income tax returns for clients each year—8,789 in the 2007 through 2011 filing seasons—from one of its two locations in Baton Rouge and Gonzales, Louisiana. Dixon has operated this return preparation business for at least 15 years. Each of these returns listed the Employer Identification Number of Dixon's Tax Service.

10. Defendants Dixon and Dixon's Tax Service, through Dixon and its employees, have repeatedly and regularly prepared returns overstating their clients' deductions or credits and correspondingly understating their clients' federal income tax liabilities or overstating the refunds to which they are entitled. Many of these understatements of liability are due to positions that Defendant Dixon and the employees of defendant Dixon's Tax Service knew or should have known were unreasonable.

11. Defendants Dixon and Dixon's Tax Service, through Dixon and its employees, have caused substantial revenue losses to the United States, the extent of which may be estimated from returns prepared by Defendant which have been audited by the IRS.

12. The IRS audited 138 of the 1,878 returns prepared by Dixon's Tax Service, through Dixon and its employees, for the 2008 income tax year. All but two of these examinations resulted in a deficiency of income tax. The United States' loss from the 136 deficient returns is \$631,222.

13. The IRS audited 60 of the 1,747 returns prepared by Dixon's Tax Service, through Dixon and its employees, for the 2009 income tax year. All but two of these examinations resulted in a deficiency of income tax. The United States' loss from the 58 deficient returns is \$253,802.

14. The average deficiency in the 198 returns the IRS has audited is \$4,470 $[(631,222 + 253,802) \div 198]$. Spread over the 8,789 returns Dixon's Tax Service, through Dixon and its employees, prepared during the 2007-2011 filing seasons, the IRS estimates that the harm to the United States as a result of the defendants' misconduct could be as much as \$39 million.

SCHEME BY WHICH DEFENDANT FABRICATES AND INFLATES BUSINESS DEDUCTIONS

15. Defendants Dixon and Dixon's Tax Service, through Dixon and its employees, have continuously engaged in a scheme in which they have fabricated and inflated business expense deductions reported on many of their taxpayers' Schedule Cs (Forms 1040) for existing and fictional businesses. By fabricating and inflating these deductions, the defendants reduce a client's taxable income, which results in a reduced tax liability. Because these clients often have had taxes withheld from their paychecks, their reduced liability often results in a higher refund.

16. Defendants Dixon and Dixon's Tax Service, through Dixon and its employees, have repeatedly prepared returns for taxpayers in which they have failed to be diligent in determining the taxpayers' eligibility for the credit under 26 U.S.C. § 32, i.e. the Earned Income Tax Credit (EITC), a refundable credit that can generate a refund exceeding the amount of income tax paid by an individual taxpayer. Instead, the defendants have repeatedly prepared returns that claim the EITC for customers who do not qualify for it. In particular, the defendants manipulate expenses listed on taxpayers' Schedule C in order to lower an individual's earned income in order to maximize a claim for the EITC. Beyond a certain amount of earned income the EITC a taxpayer may claim will decrease. Therefore, by fabricating expenses on a taxpayer's Schedule C, the defendants could lower the taxpayer's earned income and increase his EITC.

17. Upon being interviewed by employees of the IRS, several taxpayers whose returns reported Schedule C deductions stated that they either never had any such reported business expenses or such business expenses were inflated, and in either case, the taxpayers did not tell defendant Dixon to prepare returns claiming such deductions. Furthermore, in some of these instances, an examination of the return resulted in a disallowance of these business expenses and the claim for an EITC. For example:

a. Defendant Dixon prepared a 2008 tax return for a client identified herein by initials "B.B.". The 2008 return reported total business losses of \$6,139, which reduced B.B.'s adjusted gross income to \$31,956. As a result, B.B. received a refund of \$904 in income taxes including an EITC of \$323. The return listed B.B.'s occupation as "CNA." The Schedule C on which the false business losses were reported listed B.B.'s principal business as "child care" and claimed \$7,200 in gross income and \$13,339 in total expenses for a business called "Bell Caring Hands." After being contacted by the IRS, B.B. stated that she did not own nor operate a child care business and that her work at a nursing home did not allow for any spare time to run a business. B.B. stated that she gave her W-2 to her daughter who took the W-2 to defendant Dixon in order to prepare B.B.'s 2008 return. After being contacted by the IRS, the daughter stated that she was present during Dixon's preparation of B.B.'s 2008 return. According to the daughter, Dixon explained that unless B.B. added a business to her return, B.B. would owe taxes to the government. The daughter stated that Dixon was responsible for the figures stated on B.B.'s Schedule C and that Dixon asked the daughter to make up a name for the fabricated business. Upon examination of B.B.'s return, the IRS determined a deficiency in income tax of

\$5,666 because all of the expenses listed on her Schedule C, as well as her EITC were disallowed.

b. Defendant Dixon prepared a 2007 return for a client identified herein by initials “W.M.”. The 2007 return reported total business losses of \$6,363, which reduced W.M.’s adjusted gross income to \$22,956. As a result, W.M. received a refund of \$1,311 in payments withheld from his paycheck throughout the year. The return listed W.M.’s occupation as “foundation specialist.” The Schedule C on which the overstated business losses were reported listed W.M.’s principal business as “lawn care service” and claimed \$6,424 in car and truck expenses (which corresponds to mileage of over 13,000 miles) and \$1,068 in insurance expenses. After being contacted by the IRS, W.M. stated that the car and truck expenses were overstated because his lawn care business serviced neighborhoods where he lived and there was not much travel. Also, W.M. stated that he did not have any insurance related to the business. In addition, W.M. stated that he did not provide the defendant with the numbers listed. Finally, W.M. stated that of the \$11,963 total expense reported on his 2007 Schedule C, approximately \$1,440 represents his actual Schedule C expenses.

c. Defendant Dixon also prepared a 2008 tax return for W.M.. The 2008 return reported total business losses of \$7,874, which reduced W.M.’s adjusted gross income to \$11,722. As a result, W.M. received a refund of all of the \$2,051 in payments withheld from his paycheck throughout the year, as well as an EITC of \$88. The return listed W.M.’s occupation as “foundation specialist.” The Schedule C on which the inflated business losses were reported listed W.M.’s principal business as “lawncare service” and claimed \$7,127 in car and truck expenses, \$1,416 in insurance expenses, and \$8,068 in supplies expenses. After being contacted

by the IRS, W.M. stated that the expenses listed for car and truck, as well as supplies were inflated. Also, W.M. stated that he carried no insurance on the business thus had no insurance expenses. In addition, W.M. stated that he did not provide the defendant with the numbers listed. Upon examination of W.M.'s 2008 return, the IRS determined a deficiency in income tax of \$1,281 because W.M. failed to substantiate both the business income and the expenses reported on his Schedule C. Finally, the IRS examination of W.M.'s 2008 return also resulted in a disallowance of the EITC claimed on his return.

d Defendant Dixon prepared a 2008 tax return for a client identified herein by initials "A.M.". The 2008 return reported total business losses of \$12,678, which reduced A.M.'s adjusted gross income to \$29,080. As a result, A.M. received a refund of \$5,614 in income taxes representing an EITC of \$786 and a refund of nearly all of the \$5,367 in payments withheld from her paycheck throughout the year. The return listed A.M.'s occupation as "academic counselor." The Schedule C on which the false business losses were reported listed A.M.'s principal business as "travel agency manage[sic]" and claimed \$1,500 in gross income and \$14,178 in total expenses for a business called "Global Travel and Cruise." After being contacted by the IRS, A.M. stated that she participated in this business with her boyfriend. A.M. also stated that defendant Dixon determined that the income and expenses for this business should be reported on A.M.'s return because she made more money than her boyfriend. In addition, A.M. stated that her boyfriend and Dixon discussed the amount of income and expenses to be reported on A.M.'s return, that those amounts were not checked by A.M. for accuracy, and she did not know if the reported amounts were accurate. Finally, upon examination of A.M.'s

2008 return, the IRS determined a deficiency in income tax of \$2,368 because most of the expenses listed on her Schedule C, as well as her claimed EITC were disallowed.

Count I - Injunction Under 26 U.S.C. § 7407

18. The United States incorporates by reference the allegations in paragraphs 1 through 15.

19. 26 U.S.C. § 7407 authorizes a District Court to enjoin a person who is a tax return preparer from engaging in certain prohibited conduct or from further acting as a tax return preparer. The prohibited conduct justifying an injunction includes, among other things, the following:

a. engaging in conduct subject to penalty under 26 U.S.C. § 6694, which penalizes a return preparer who prepares a return that contains an understatement of tax liability or an overstatement of a refund that is due to an unreasonable position which the return preparer knew or should have known was unreasonable;

b. engaging in conduct subject to penalty under 26 U.S.C. § 6695(g), which penalizes a tax return preparer for failing to exercise due diligence in determining eligibility for the EITC; and

c. engaging in any other fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws.

20. In order for a court to issue such an injunction, the court must find (1) that the tax return preparer engaged in the prohibited conduct, and (2) that injunctive relief is appropriate to prevent the recurrence of such conduct.

21. The court may permanently enjoin a person from acting as a tax return preparer if it finds that the preparer has continually and repeatedly engaged in conduct prohibited by the statute, and that a narrow injunction, e.g. only against the schemes identified herein, would not be sufficient to prevent the person's interference with the proper administration of the federal tax laws.

22. Defendants Dixon and Dixon's Tax Service, through Dixon and its employees, have repeatedly and continually prepared or submitted returns that contained understatements of tax liability that were due to positions that he knew or reasonably should have known were unreasonable and subject to penalty under 26 U.S.C. § 6694(a).

23. Defendants Dixon and Dixon's Tax Service, through Dixon and its employees, have repeatedly and continually failed to exercise due diligence in determining his customers' eligibility for the EITC and prepared returns incorrectly claiming the EITC.

24. Because defendants Dixon and Dixon's Tax Service, through Dixon and its employees, engaged in conduct prohibited by 26 U.S.C. § 7407(b)(1), they are subject to an injunction for those activities. Defendants Dixon and Dixon's Tax Service, through Dixon and its employees, have understated their clients' liability or overstated their refund in the vast majority of returns they have prepared. Absent an injunction, defendants Dixon and Dixon's Tax Service, through Dixon and its employees, are likely to continue preparing false federal income tax returns.

25. A narrow injunction against only the defendants' schemes identified herein would be insufficient to prevent their interference with the proper administration of the federal tax laws. The variety of ways in which defendants have falsely prepared returns and the audacity with

which they have fabricated businesses, let alone business expenses, demonstrates the necessity of enjoining them from preparing returns.

26. Only a permanent injunction is sufficient to prevent future harm. If defendants Dixon and Dixon's Tax Service, through Dixon and its employees, are not permanently enjoined from preparing tax returns, the IRS will be required to spend additional scarce and unrecoverable resources to investigate and analyze returns defendant prepares in the future. In addition, the United States will be harmed from the loss of revenues from bogus and fraudulent refunds or underpayments on returns prepared by the defendants.

27. Moreover, because the defendants have repeatedly and continually engaged in activities subject to injunction under 26 U.S.C. § 7407(b)(1), and because a narrower injunction would not be sufficient to prevent his interference with the proper administration of the federal tax laws, they should be permanently enjoined from acting as an income tax return preparer.

Count II - Injunction under 26 U.S.C. § 7408

28. The United States incorporates by reference the allegations in paragraphs 1 through 25.

29. 26 U.S.C. § 7408 authorizes a District Court to enjoin a person who is engaging in conduct subject to a penalty under 26 U.S.C. § 6701 and that injunctive relief is appropriate to prevent reoccurrence of this conduct.

30. Conduct is subject to a penalty under section 6701 if a person aids or assists in the preparation of any portion of a return when the person knows or has reason to believe that such portion will be used in connection with a material matter arising under federal tax law, and the

person know that such portion will result in a material understatement of the tax liability of another person.

31. Defendants Dixon and Dixon's Tax Service, through Dixon and its employees, have aided or assisted their clients in preparation of portion of returns, such as taxpayers' Schedule C, which the defendants knew would be used in connection with the reporting of their clients' tax liability, a material matter arising under federal tax law, and the defendants knew this reporting would result in a material understatement of their clients' tax liability.

32. Because Defendants Dixon and Dixon's Tax Service, through Dixon and its employees, engaged in conduct prohibited by 26 U.S.C. § 7408(b)(1), they are subject to an injunction for those activities

Count III - Injunction under 26 U.S.C. § 7402

33. The United States incorporates by reference the allegations in paragraph 1 through 30.

34. 26 U.S.C. § 7402(a) authorizes a court to issue orders of injunction as may be necessary or appropriate for the enforcement of internal revenue laws.

35. The defendants, as described above, have repeatedly and continually engaged in conduct that interferes substantially with the administration and enforcement of internal revenue laws.

36. If the defendants continue to act as a tax return preparer, their conduct will result in irreparable harm to the United States, and the United States has no adequate remedy at law.

37. The defendants' conduct has caused and will continue to cause substantial tax losses to the United States Treasury, much of which may be undiscovered and unrecoverable.

Moreover, unless the defendants are enjoined from preparing returns, the IRS will have to devote substantial unrecoverable time and resources auditing their clients individually to detect future returns understating the clients' income.

38. The detection and audit of erroneous EITC refund or underpayments claims filed by defendants' customers will place a serious burden on IRS resources.

WHEREFORE, the plaintiff, United States of America, respectfully prays for the following:

A. That the Court find that Larry Dixon, Sr. and Dixon's Tax Service, L.L.C. repeatedly and continually engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695, and that injunctive relief is appropriate under 26 U.S.C. § 7407 to prevent recurrence of that conduct.

B. That the Court find that Larry Dixon, Sr. and Dixon's Tax Service, L.L.C. have engaged in conduct subject to a penalty under 26 U.S.C. § 6701 and that injunctive relief is appropriate under 26 U.S.C. § 7408 to prevent reoccurrence of that conduct.

C. That the court find that Larry Dixon, Sr. and Dixon's Tax Service, L.L.C. have repeatedly and continually engaged in conduct that substantially interferes with the proper enforcement and administration of the internal revenue laws, and that injunctive relief against the defendant is appropriate to prevent the recurrence of that conduct pursuant to 26 U.S.C. §§ 7402(a).

D. That the Court enter a permanent injunction prohibiting the defendants from directly or indirectly:

1. preparing income tax returns, amended returns, and other related documents and forms for others;
2. assisting in the preparation of federal tax returns that they know will result in the understatement of any tax liability or the overstatement of federal tax refunds;
3. engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694, 6695 or 6701; and
4. engaging in any fraudulent or deceptive conduct which substantially interferes with the proper administration and enforcement of internal revenue laws.

E. That the Court enter an injunction:

1. Requiring the defendants, at their own expense, to send by certified mail, return receipt requested, a copy of the final injunction entered against them in this action to each person for whom they prepared federal income tax returns or any other federal tax forms after January 1, 2006;
2. Requiring the defendants to turn over to the United States copies of all returns or claims for refund that were prepared by Dixon or Dixon's Tax Service after January 1, 2006;
3. Requiring the defendants to identify under oath each return they individually prepared or assisted in preparing that was transmitted to the IRS by Dixon or Dixon's Tax Service.

4. Requiring the defendants to turn over to the United States a list with the name, address and telephone number, e-mail address (if known), and social security number or other taxpayer identification number of all customers for whom Dixon or Dixon's Tax Service prepared returns after January 1, 2006;
5. Requiring the defendants, within forty-five (45) days of entry of the final injunction in this action, to file a sworn statement with the Court evidencing their compliance with the foregoing directives; and
6. Requiring the defendants to keep records of their compliance with the foregoing directives, which may be produced to the Court, if requested, or to the United States pursuant to paragraph F, below.

F. That the Court enter an order allowing the United States to monitor the defendants' compliance with this injunction, and to engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure; and

G. That the Court grant the United States such other and further relief as the Court deems appropriate.

Date Submitted: February 28, 2012

Respectfully submitted,

JOHN A. DICICCO
PRINCIPAL DEPUTY ASSISTANT
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing United States' AMENDED COMPLAINT FOR PERMANENT INJUNCTION, with proposed order with the Clerk of the Court by using the CM/ECF system thereby serving all counsel of record.

Baton Rouge, Louisiana this 28th day of February, 2012.

/s/ John J. Gaupp

John J. Gaupp, LBN 14976
Assistant United States Attorney